IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 983 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANOHAR SING WALIA - Petitioner(s)

Versus

GOVT. OF GUJARAT THRO' THE CHIEF SECRETARY & 1 - Respondent(s)

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Appearance :
MR DEVESH A BHATT for Petitioner(s) : 1,
MR. PRACHCHHAK, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 23/01/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India. The petitioner has prayed for an appropriate writ, direction or order directing the respondent No.1 to dispose of the petitioner's

application dated 31.12.2004 within 15 days from the receipt of the order.

2.It is the case on behalf of the petitioner that the petitioner has submitted an application dated 31.12.2004 to the Hon'ble Minister of Revenue, Government of Gujarat, the copy of which is sent to the Principal Secretary, Revenue Department, Gandhinagar for granting the permission under Section 197 of the Code of Criminal Procedure; 1973 to prosecute respondent No.2 i.e. Shri Rajiv Topno, District Collector & District Magistrate, Bharuch (at the relevant time).

3.When the matter is called out, the learned advocate appearing on behalf of the petitioner is absent. Shri Prachchhak, learned AGP appearing on behalf of the respondents has submitted that the application of the petitioner was considered however, as the same was sent to the Principal Secretary, Revenue Department, Gandhinagar, who has nothing to do with the same and therefore, the application of the petitioner was transferred to the Home Department and the concerned department is not a party to the present proceedings. He has submitted that unless the concerned department

is a party to the proceedings, it is requested not to grant any relief in favour of the petitioner as prayed for. It is true that the concerned department is not a party to the proceedings however, in view of the fact that the application of the petitioner submitted by the petitioner on 31.12.2004 has been transferred to the Home Department, the Home Department should at least inform the petitioner with regard to the outcome of the same. It is the contention of Shri Prachchhak, learned AGP that as such there is no substance whatsoever in the application submitted by the petitioner dated 31.12.2004 and therefore, the Home Department might not have taken any action. However, it is required to be noted that even that is so the concerned department is as such required to inform the petitioner with regard to the decision that may be taken on the application submitted by the petitioner and/or the outcome of the same.

4. Under the circumstances, the concerned department is directed to inform the petitioner with regard to the outcome of his application dated 31.12.2004 as early as possible preferably within a period of 3 months from the date of receipt of this order. It is, however, made clear that this Court has not expressed any opinion on

the merits of the application submitted by the petitioner dated 31.12.2004 and by virtue of aforesaid direction, it may not be construed that this Court has directed to grant permission. It is, ultimately, for the appropriate department and/or the authority to take an appropriate decision in accordance with law and on merits.

5.With these observations and direction, the present Special Civil Application is disposed of.

(M.R.SHAH, J.)

kdc.